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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/206,249	12/07/1998	MIRI SEIBERG	JBP438	5255

7590 05/20/2003

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EXAMINER

MELLER, MICHAEL V

ART UNIT

PAPER NUMBER

1654

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/206,249

Applicant(s)

SEIBERG ET AL.

Examiner

Michael V. Meller

Art Unit

1654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: none.

Claim(s) objected to: _____.

Claim(s) rejected: 24, 28-36, 38, 40, 44-47 and 58.

Claim(s) withdrawn from consideration: 23, 25, 37, 39, 41 and 48-57.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Michael V. Meller
Primary Examiner
Art Unit: 1654

Continuation of 2. NOTE: the use of the phrases, "in need thereof", "therapeutically phagocytosis or ICAM-1 decreasing", "soybean milk containing soybean trypsin inhibitor" raises new issues.

Continuation of 5. does NOT place the application in condition for allowance because: the declaration is noted but in Limtrakul they obviously administered the soybean milk to the mice and further in Kosaka they clearly administer a composition of soybean milk to humans for medicinal purposes, thus the argument is moot and the declaration is thus questionable on its face. Applicant also argues that Kosaka teaches papain is in the composition but applicants claims do not exclude other ingredients besides soybean milk. In terms of the comments concerning JP 62-36304 it is noted that applicants have admitted that the soybean milk was processed for consumption thus it is not a problem for humans to consume and thus it is still a viable reference. Further, the composition is clearly topically applied to the skin. Applicants comments concerning 09/110,409 are not understood since Eisinger is a named inventor in this application thus it still is rejection using a reference by "another". Applicant finally says that Limtrakul does not teach application on skin but the abstract of Limtrakul is explicit in saying that they studied the effect of soybean milk on mouse skin..